

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7527

BILL NUMBER: HB 1337

NOTE PREPARED: Jan 16, 2011

BILL AMENDED:

SUBJECT: Teacher Contracts.

FIRST AUTHOR: Rep. Behning

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Temporary Teacher:* This bill extends the use of temporary teacher contracts to hiring for positions funded by grants.

Cancellation: The bill establishes a process for contract cancellation for teachers.

Contracts: The bill provides that a collective bargaining agreement (agreement) may not include provisions that limit a school employer's ability to restructure schools that do not meet federal or state accountability standards, or that limit a school employer's ability to enter into programs that offer postsecondary credit or dual credits to students. It provides that an agreement may not extend beyond the end of a state budget biennium. The bill also prohibits certain subjects from being bargained collectively, and provides that prohibited subjects and items that lead to deficit financing may not be included in an agreement. It removes provisions concerning discussion subjects. The bill provides that collective bargaining begins not later than May 1, and makes corresponding changes to related sections. It provides that a school employer may end a status quo period.

Unfair Labor Practice: The bill provides that if a complaint that is filed alleging an unfair practice is found to be frivolous, the complaining party is liable for costs and attorneys' fees.

Repealers: The bill repeals provisions concerning contract cancellation for teachers, the Indiana Education Employment Relations Board, certain definitions, a provision allowing the statutory procedures for refusing to continue or canceling a teacher contract to be modified by an agreement, staff performance evaluation, and subjects of discussion, and makes conforming changes to related sections.

Effective Date: Upon passage; July 1, 2011.

Explanation of State Expenditures: *Staff Performance Evaluations:* The State Board of Education (DOE) is required to adopt rules that define the criteria for the four categories of teacher ratings, measures used to determine student academic achievement, actions that constitute negative impact on student achievement, and standards of training evaluators. The Department of Education must also publish the results of staff performance by each school and school corporation and by graduates of Indiana teacher preparation programs. The State Board and DOE can adopt rules, set the standards and publish the required information within their existing resources.

Explanation of State Revenues:

Explanation of Local Expenditures: *Temporary Teacher:* The bill could make it easier to terminate a teacher when a grant expires. It also eliminates the minimum salary requirement for temporary teachers. These changes could result in administrative costs savings.

Cancellation: The bill creates three classifications of teachers: probationary, professional, and established. An established teacher is a teacher who served under a contract as a teacher in public schools before July 1, 2012, and enters into a teacher's contract for future service at a school corporation before that date. A professional teacher is defined as a teacher who is not an established teacher and receives either an effective or highly effective evaluation for at least three years in a five-year or shorter time period. A professional teacher can become a probationary teacher but not be subject to cancellation except in certain cases. All other teachers are probationary.

A probationary teacher's contract can be cancelled for any reason relevant to the corporation's interest or because of performance.

A professional teacher's contract would continue unless the teacher is subject to a justifiable decrease in the number of teaching positions based on performance and not solely on seniority.

An established teacher's contract would continue indefinitely as indefinite contract.

A teacher's contract can be cancelled immediately for:

1. Immorality.
2. Insubordination
3. Misconduct in office
4. Incompetence
5. Willful neglect of duty
6. A conviction for an offense.
7. Other good or just cause.

The bill would also establish a due process procedure for teachers' contracts that are canceled. The impact would depend on whether it made it easier for schools to replace ineffective teachers. The initial savings would probably be small since the majority of teachers would be established teachers.

The bill allows a teacher who has been suspended from duty pending the cancellation of a contract to be suspended without pay. The savings from suspending a teacher without pay would depend on the number of teachers suspended and the salary of the teachers. For the 2010 school year, the average teacher's salary

was about \$47,000 a year, or about \$261 per day.

Contracts: The various changes to the collective bargaining law could make it easier for schools to make changes to the school structure and curriculum. Not allowing a bargaining agreement to extend beyond the end of a state budget biennium may require schools to change their bargaining schedule, but once that is done there should be no fiscal impact.

The school corporation would not have to bargain teachers' hours. Contracts would be required to have at least 180 full days for student instruction and 5 additional days for purposes determined by the principal or superintendent. Most schools have at least 180 instructional days, but not all of them have the additional five days. Approximately 57% of the schools have less than five additional days. Schools could incur some additional costs if they have to compensate teachers for additional days. Any additional days would have to be paid from existing school resources.

The bill would remove the following topics from being negotiable under a collective bargaining agreement:

1. Working Conditions,
2. Curriculum development and revision.
3. Textbook selection.
4. Teaching methods.
5. Hiring, evaluation, promotion, demotion, transfer, assignment, and retention of certified employees. (Currently, evaluations are not part of the requirement.)
6. Student discipline.
7. Expulsion or supervision of students.
8. Pupil/teacher ratio.
9. Class size or budget appropriations.

Schools would be required to discuss matters affecting the development, implementation, and execution of educational approaches between professional educators and leaders of the school, school corporation, or community. The corporation may, but is not required to, invite the union representative and others to participate in the discussion.

The bill also clarifies that schools cannot enter into an agreement that puts them in a position of deficit financing.

The bill removes the provision that superintendent contracts have to be at least three years. The provision would increase schools' flexibility in issuing contracts and could reduce costs.

[Background: There are about 310 schools or co-ops that collectively bargain. School general fund expenditures for FY 2010 were about \$6.8 B, of which \$6.1 B was for salaries and fringe benefits. For FY 2010, schools spent about \$3.7 M on staff negotiations and relations. For the 2010-2011 school year the Educational Employment Relations Board has analyzed 70 contracts, and the average increase in salary is 0.64% without increment and 2.32% with an increment.]

Staff Performance Evaluations: The bill requires each school corporation to develop a plan for annual performance evaluations for each certified employee to be implemented with the 2012-2013 school year. The plan must include:

1. Performance evaluations for all certified staff done at least annually.
2. Objective measures of student achievement and growth.
3. An annual designation of each certified employee as:
 - a. Highly effective.
 - b. Effective.
 - c. Improvement necessary.
 - d. Ineffective.
4. An explanation of the evaluator's recommendations for improvement and schedule for improvement.
5. A provision that a teacher who negatively impacts student achievement and growth cannot be rated as highly effective or effective.

The evaluations would have to be done with existing resources. Most schools do some evaluation now, and those resources could potentially be used for the new procedures.

Unfair Labor Practices: The impact would depend on the number of frivolous unfair practice complaints filed against schools. The provision could reduce school costs.

Explanation of Local Revenues:

State Agencies Affected: State Board of Education; Department of Education; Indiana Employment Relations Board.

Local Agencies Affected: Local schools.

Information Sources: Department of Education databases.

Fiscal Analyst: Chuck Mayfield, 317-232-4825.